

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1079 Session of
2007

INTRODUCED BY WAUGH, REGOLA, FERLO, ARMSTRONG, BAKER, BROWNE,
BRUBAKER, CORMAN, COSTA, EICHELBERGER, ERICKSON, FOLMER,
FONTANA, GORDNER, GREENLEAF, KASUNIC, LAVALLE, PILEGGI,
PIPPY, PUNT, ROBBINS, SCARNATI, STOUT, TOMLINSON, VANCE AND
WONDERLING, SEPTEMBER 21, 2007

REFERRED TO URBAN AFFAIRS AND HOUSING, SEPTEMBER 21, 2007

AN ACT

1 Amending the act of May 28, 1937 (P.L.955, No.265), entitled, as
2 amended, "An act to promote public health, safety, morals,
3 and welfare by declaring the necessity of creating public
4 bodies, corporate and politic, to be known as housing
5 authorities to engage in slum clearance, and to undertake
6 projects, to provide dwelling accommodations for persons of
7 low income; providing for the organization of such housing
8 authorities; defining their powers and duties; providing for
9 the exercise of such powers, including the acquisition of
10 property by purchase, gift or eminent domain, the renting and
11 selling of property, and including borrowing money, issuing
12 bonds, and other obligations, and giving security therefor;
13 prescribing the remedies of obligees of housing authorities;
14 authorizing housing authorities to enter into agreements,
15 including agreements with the United States, the
16 Commonwealth, and political subdivisions and municipalities
17 thereof; defining the application of zoning, sanitary, and
18 building laws and regulations to projects built or maintained
19 by such housing authorities; exempting the property and
20 securities of such housing authorities from taxation; and
21 imposing duties and conferring powers upon the State Planning
22 Board, and certain other State officers and departments,"
23 further providing for awards of contracts, completion bond,
24 additional bond for protection of materialmen and others.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Section 11 of the act of May 28, 1937 (P.L.955,

1 No.265), known as the Housing Authorities Law, amended May 20,
2 1949 (P.L.1614, No.486), February 16, 1990 (P.L.67, No.13) and
3 November 21, 1990 (P.L.569, No.143), is amended to read:

4 Section 11. Awards of Contracts; Completion Bond; Additional
5 Bond for Protection of Materialmen and Others.--

6 (a) Whenever the estimated cost of any construction,
7 erection, installation, completion, alteration, repair of, or
8 addition to, any project subject to the control of any Authority
9 shall exceed [ten thousand (\$10,000) dollars] twenty-five
10 thousand (\$25,000) dollars subject to annual adjustment under
11 subsection (b.3), it shall be the duty of said Authority to have
12 such work performed pursuant to a contract awarded to the lowest
13 responsible bidder, after advertisement for bids. Every such
14 contract shall contain a provision obligating the contractor to
15 the prompt payment of all material furnished, labor supplied or
16 performed, rental for equipment employed, and services rendered
17 by public utilities in or in connection with the prosecution of
18 the work, whether or not the said material, labor, equipment or
19 service enter into and become component parts of the work or
20 improvement contemplated. Such provision shall be deemed to be
21 included for the benefit of every person, copartnership,
22 association or corporation who, as subcontractor or otherwise,
23 has furnished material, supplied or performed labor, rented
24 equipment or services in or in connection with the prosecution
25 of the work as aforesaid, and the inclusion thereof in any
26 contract shall preclude the filing by any such person,
27 copartnership, association or corporation of any mechanics' lien
28 claim for such material, labor or rental of equipment.

29 (b) Whenever the estimated cost of any purchase of supplies,
30 materials or equipment or the rental of any equipment, whether

1 or not the same is to be used in connection with the
2 construction, erection, installation, completion, alteration,
3 repair of, or addition to, any project subject to the control of
4 any Authority, shall exceed [ten thousand (\$10,000) dollars]
5 twenty-five thousand (\$25,000) dollars subject to annual
6 adjustment under subsection (b.3), it shall be the duty of such
7 Authority to have such purchase or rental made pursuant to a
8 contract awarded to the lowest responsible bidder, after
9 advertisement for bids, such advertisement to be inserted in a
10 newspaper of general circulation within the county in which the
11 Authority operates.

12 (b.1) An authority shall not evade the provisions of
13 subsection (a) or (b) as to advertising for bids by purchasing
14 materials or contracting for services piecemeal for the purpose
15 of obtaining prices under [ten thousand (\$10,000) dollars]
16 twenty-five thousand (\$25,000) dollars subject to annual
17 adjustment under subsection (b.3) upon transactions which
18 should, in the exercise of reasonable discretion and prudence,
19 be conducted as one transaction amounting to more than [ten
20 thousand (\$10,000) dollars] twenty-five thousand (\$25,000)
21 dollars subject to annual adjustment under subsection (b.3).

22 This provision is intended to make unlawful the practice of
23 evading advertising requirements by making a series of purchases
24 or contracts, each for less than the advertising requirement
25 price, or by making several simultaneous purchases or contracts,
26 each below said price, when, in either case, the transactions
27 involved should have been made as one transaction for one price.

28 (b.2) Written or telephonic price quotations from at least
29 three qualified and responsible contractors shall be requested
30 for all contracts that exceed [four thousand (\$4,000) dollars]

1 seven thousand (\$7,000) dollars subject to annual adjustment
2 under subsection (b.3) but are less than the amount requiring
3 advertisement and competitive bidding or, in lieu of price
4 quotations, a memorandum shall be kept on file showing that
5 fewer than three qualified contractors exist in the market area
6 within which it is practicable to obtain quotations. A written
7 record of telephonic price quotations shall be made and shall
8 contain at least the date of the quotation, the name of the
9 contractor and the contractor's representative, the
10 construction, reconstruction, repair, maintenance or work which
11 was the subject of the quotation and the price. Written price
12 quotations, written records of telephonic price quotations and
13 memoranda shall be retained for a period of three years.

14 (b.3) (1) Annually, beginning with the year in which this
15 subsection becomes applicable to contracts and purchases, the
16 Department of Labor and Industry shall calculate the percentage
17 change in the Consumer Price Index for All Urban Consumers (CPI-
18 U) for the United States city average for all items as published
19 by the United States Department of Labor, Bureau of Labor
20 Statistics, for the twelve-month average ending in September of
21 the prior year.

22 (2) The amount at which competitive bidding is required
23 under subsection (a) and the amount at which written or
24 telephonic price quotations are required under subsection (b.2)
25 shall be adjusted annually as follows:

26 (i) In the case of competitive bidding, the positive
27 percentage change, as determined in accordance with clause (1),
28 shall be multiplied by the amount applicable under subsection
29 (a) for the current year and the product thereof shall be added
30 to the amount applicable under subsection (a) for the current

year, with the result rounded to the nearest multiple of ten (\$10) dollars.

(ii) In the case of written or telephonic price quotations, the positive percentage change, as determined in accordance with clause (1), shall be multiplied by the amount applicable under subsection (b.2) for the current year and the product thereof shall be added to the amount applicable under subsection (b.2) for the current year, with the result rounded to the nearest multiple of ten (\$10) dollars.

(3) The annual determination required under clause (1) and the calculation of the adjustments required under clause (2) shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection, and annually between October 1 and November 15 of each successive year.

(4) The adjusted amounts obtained in accordance with clause (2) shall become effective January 1 for the calendar year following the year in which the determination required under clause (1) is made.

(5) The Department of Labor and Industry shall give notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined in accordance with clause (1) and the amounts, whether adjusted or unadjusted in accordance with clause (2), at which competitive bidding is required under subsection (a) and written or telephonic price quotations are required under subsection (b.2) for the calendar year beginning the first day of January after publication of the notice.

(c) A housing authority shall require as a condition of the award of any contract, pursuant to subsection (a) or (b) of this

1 section, that the contractor give to the Authority any bond
2 (including bonds for the performance of the contract, and for
3 the prompt payment by the contractor for material, supplies,
4 labor, services and equipment) which are prescribed by law for
5 contracts awarded by cities or counties, as the case may be, of
6 the same class as the city or county for which such Authority
7 has been created.

8 (d) Notwithstanding anything to the contrary contained in
9 this act or in any other provision of law, a housing authority
10 may include, in any contract let in connection with a project,
11 stipulations requiring that the contractor and any
12 subcontractors comply with requirements as to minimum wages and
13 maximum hours of labor, and comply with any conditions which the
14 Federal or State Government may have attached to its financial
15 aid of the project.

16 (e) Every Authority awarding contracts or requiring the
17 delivery of bonds pursuant to this section shall keep an exact
18 copy of every contract awarded or bond delivered upon file at
19 its principal office. Subject to regulations to be prescribed by
20 the State Planning Board for their safe keeping such copies
21 shall be opened to public inspection.

22 (f) Any authority member who votes to unlawfully evade the
23 provisions of this section and who knows that the transaction
24 upon which he so votes is or ought to be a part of a larger
25 transaction and that it is being divided in order to evade the
26 requirements as to advertising for bids commits a misdemeanor of
27 the third degree for each contract entered into as a direct
28 result of that vote.

29 Section 2. This act shall apply to contracts and purchases
30 advertised on or after January 1 of the year following the

1 effective date of this section.

2 Section 3. This act shall take effect immediately.